

## **EXHIBIT H**

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 10-CIV-4622 (WHP)

5 -----x  
6 KAREN SCOTT,

7 Plaintiff,

8 vs.

9 WPIX, INC.,

10 Defendant.  
11 -----x

12  
13 April 11, 2011

14 3:59 p.m.

15 Videotaped Deposition of MARVIN SCOTT,  
16 held at the offices of Haynes and Boone, LLP, 30  
17 Rockefeller Plaza, New York, New York, before  
18 Francine Sky, a Notary Public of the State of New  
19 York.  
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23  
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will rephrase it in a way you do understand it.

Please let me finish my question before responding so the court reporter has an easier time taking down everything we say.

A. Understood.

Q. Mr. Scott, what's your current address?

A. [REDACTED] North Bergen, New Jersey 07047.

Q. How old are you at present?

A. 73.

Q. Mr. Scott, you're currently employed?

A. Yes.

Q. Who is your current employer?

A. WPIX TV.

Q. What position do you have at WPIX?

A. I'm a reporter, senior correspondent.

Q. When did you begin employment with WPIX?

A. November 1980.

Q. If you can, take me through the positions you've held between November 1980 and

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currently with WPIX.

A. I began as a reporter first year. Second year I was named co-anchor of our midday edition report, which was a syndicated program of Independent Network News. Held that for a couple of years.

Then anchored USA Tonight, which was a syndicated program produced by WPIX on the Independent Network News. Produced, reported, did special projects, still maintaining some degree of anchoring.

Did a weekly program called INN Magazine late '80s -- I think late '80s. Began anchoring the local broadcast, 10 o'clock news, sometime in the '90s.

Transferred to weekend anchor. Remained weekend anchor for a period of years. I think it was through 2002 that I was weekend anchor, April of 2002, as a matter of fact.

I've done reports and I've done special assignments, produced specials, and also through the period of time also host an anchor weekly program called -- now it's called PIX 11 News Close-Up. It's a weekly news issue-

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asks the questions, or vice versa. That's just for the record. You are free to answer the question.

Going back, my question was: What, if any, changes have there been to your duties and responsibilities at WPIX between 2001 and today?

A. Responsibilities, basically, have been diminished. Since I was taken off any anchor assignments I've never anchored since -- I have not had one anchor assignment.

I have continued with my weekly broadcast. I have served as and continue to serve as a reporter.

Q. You haven't done any anchoring since 2002?

A. No.

Q. Do you know who made the decision to relieve you of your anchoring responsibilities?

A. Yes.

Q. Who is that?

A. Our General Manager.

Q. Who was your General Manager in

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A. No.

Q. Did anybody ever communicate to you why certain duties with respect to your reporting were changed?

A. No. I was -- I had a major change in reporting a couple of years ago. Major change in assignment, no.

Q. Do you recall what year that occurred?

A. 2009, I believe.

Q. What were the changes that were made to your reporting responsibilities?

A. I was informed I was being reassigned as weekend reporter.

Q. Who advised you of that change?

A. The message was delivered by our Assistant News Director, John Houseman.

Q. Do you know who made the decision?

A. Yes. General Manager.

Q. Who was the General Manager at the time?

A. Betty Ellen Berlamino.

Q. Were any reasons given for the changes to your reporting responsibilities?

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any comment to you about you -- about your age?

A. Specifically to me, no.

Q. Did you invite her to your wedding?

A. Yes.

Q. What year was that?

A. 2004.

Q. Did you ever complain to anybody at WPIX, either in Human Resources or elsewhere, that you believed you were a victim of age discrimination?

A. No.

Q. Why not?

A. I was still working, I still had a decent contract, and until the most recent contract with a severe, severe cutback -- I'm a journalist, I've been a journalist for 50 years, I take pride in my work as a journalist. You recognize and you accept whatever the assignment is, and I've accepted them all with honor and produced with honor and still do.

I believe I'm still an asset to the station.

Q. When you say your last contract, would that be a contract that was effective as

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industry or something to that effect?

A. Something to that effect.

Q. Was the industry suffering financially in 2009?

A. I'm not the bean counter.

Q. But it was your impression that it was?

A. I'm a reporter, I'm not a financial guy.

Q. As a reporter, facts are important to you?

A. Yes.

MR. RUBINSTEIN: Objection.

Q. You don't report on any speculation, do you?

MR. RUBINSTEIN: Objection.

A. Speculation is not my business.

Q. Facts are your business?

A. Just the facts, sir, or ma'am.

Q. What's your date of birth, sir?

A. [REDACTED] 37.

Q. During the time that Betty Ellen was the General Manager, so roughly some point from 2000, let's take your contract up in 2009,

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A. Right.

Q. -- in 2009, do you know whether or not the weekend news was being done by free-lance reporters?

A. No.

Q. It was not?

A. It was not. Mary Murphy and me. And our ratings were very good.

Q. Before you, though. It was just Mary Murphy before you?

A. It was Mary Murphy and me. Mary Murphy and Howard Thompson anchored for a while.

Q. Sir, I'm sorry to interrupt. I'm asking in 2009. I'm not asking about the weekend anchor position.

A. I'm sorry, okay. I'm confused.

Q. Maybe my question was confusing, so let me start over.

When you switched in 2009, I think it was maybe the early fall of 2009 you switched your schedule, so you went from -- if I understand, you went from five days reporting, from Monday to Friday, correct --

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A. Correct.

Q. -- you switched at some point in the fall of 2009 to go three days during the Monday-through-Friday schedule and then both weekend days?

A. Correct. The misunderstanding, yes.

Q. Your hours of work stayed the same; correct?

A. Correct.

Q. Such that you worked the same hours on a Saturday and Sunday that you worked during the work week?

A. Right.

Q. Your job responsibilities stayed the same, correct, you were still doing reporting?

A. Right.

Q. Your pay stayed the same?

A. Except for the cut, yes.

Q. So the only thing that changed was your actual days of work changed; correct?

A. That is correct.

Q. When you changed to the weekend, do

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changed in September of 2009, did you view the switch as a demotion?

A. Yes.

Q. And during the time period that Ms. Scott was the News Director, what was your opinion of her performance?

A. I thought she was a superb manager of the newsroom. I thought she was a good news person, had good news sense. Also held us all as a family. That everybody was important to her, everybody on the staff, whether it was a technician, or reporter, or member of a crew.

She was there with the criticism and she was there with the praise. She was very supportive of everybody, and at times of crisis, I thought she rose to the occasion. We went through the terror attacks of 9-11, I think, superlative. She was a good decision maker.

She was the one who saw the merits in something that was very special that we did, that brought a lot of honor to the station. It was an idea I proposed to her in 2004, about going to Iraq to spend Christmas with our troops. She supported it, and it was very well

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received by our audience.

Again, I said it brought a lot of honor to the station, and even warranted us where we received the highest honor from the Tribune Corporation, we received the Values Award for that. We had gone back three subsequent times. There were four trips to Iraq, and it did a lot to boost the morale at the entire station. It was so well received.

Q. Was Ms. Berlamino supportive of you going to Iraq?

A. It needed her approval.

Q. I'm not sure that answered my question.

Was she supportive of your desire to go to Iraq, if you recall?

A. Again, I would have to answer honestly, let's put it this way, we could not have gone without her blessings.

Q. Mr. Scott, you're going to have an opportunity to review the transcript from today's proceeding, and if it's okay with you, I will send it to your home address, unless you would like me to send it elsewhere.

## **EXHIBIT I**

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 10-CIV-4622 (WHP)

5 -----x  
6 KAREN SCOTT,

7 Plaintiff,

8 vs.

9 WPIX, INC.,

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-----x

11  
12 April 11, 2011

13 2:05 p.m.

14  
15 Videotaped Deposition of KAITY TONG,  
16 held at the offices of Haynes and Boone, LLP, 30  
17 Rockefeller Plaza, New York, New York, before  
18 Francine Sky, a Notary Public of the State of New  
19 York.  
20  
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Kaity Tong

actually thought about coming to sit in on this, but I decided I could do this on my own. He did advise me to stick with the -- what I just said, I will tell you what happened, and as far as whether it was fair, discriminatory or whatever, I ask that you draw your own conclusions.

Q. Why don't we go back to my question, then.

What, if any, reasons were given to you for the demotion?

A. I would say the watershed moment for me was June 29th of 2009, I was called up to Betty Ellen's office, and Karen Scott went with me. And Karen said to me, This is not going to be a pleasant meeting. And I remember saying to her, Well, they're going to cut my pay? She said, Just know -- I'm just telling you that this is not something that I agree with, and I can -- this is absolutely the truth. This is what was said to me by Karen. I don't agree with what's going to happen in that room, but I'm just trying to prepare you. Okay.

So I was given, for the first time in my entire career, a Performance Expectation

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Memo delineating, perhaps, eight or nine points which they said I needed to improve because of new research that had been done on me. This new research completely contradicts every kind of research that's ever been done on me in my 30-year career, certainly in my 20 years at Channel 11.

Karen Scott had told me, not just Karen Scott but before her, Michael Eigner, who hired me, would say that, The research we're doing on you shows that consistently you are the No. 1 female local anchor in this market, and that your TV Q is way up there.

All of a sudden, out of the blue, I have nothing in my file, my file is completely clean. I'm called in and told that there's research that's been done that shows I am the least-liked anchor in the -- local anchor in the market, that I rated the worst, and because of this research I had to answer these nine points on my Performance Expectation Memo.

Well, should I stop and wait for you to ask more questions?

Q. You tell the story and I will have

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some follow-up after that.

A. Okay. I was also told in the same meeting that because of my terrible research that my salary was going to be cut. And I answered that memo, and you can find both the memo and my very detailed answer in my file, I'm sure maybe Karen has a copy of it, too. I certainly do if you ever need to look at it.

And afterwards, in Karen's office, she said to me -- she was in a rage and she was very angry, I won't say she was in a rage, I can't say what -- she was unhappy for me and said that it was -- she told me that that research was bogus, and that it had been done not professionally in any way, and that -- in fact, on various occasions, Karen has said to me, Betty Ellen wants to get rid of you. She thinks you're too old, she doesn't like you. And she told me -- she instructed me to -- she suggested I get an attorney for age discrimination.

Q. What, if anything, did Ms. Berlamino say to you during that meeting on June 29th?

A. Betty Ellen said at one point, I

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Ms. Berlamino left in June of 2010.

A. Okay, that's what it was.

Q. It was after she left?

A. Yes. Maybe a couple of weeks after that.

Q. You still have that message?

A. I do.

Q. Do you believe that the action taken in June of 2009 was fair?

A. Again, I don't want to give my opinion on that. I just don't think it's smart to do that.

Q. Ms. Tong, because you're under oath I'm asking for your opinion and, obviously, I can't ask for anybody else's opinion.

Do you believe the action taken in June 2009 was fair?

A. No.

Q. Do you believe it had anything to do with your age?

A. Yes. May I tell you why?

Q. That was my next question, but go ahead.

A. Again, Karen, on various occasions,

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told me that she would be in a meeting with Betty Ellen and in Betty Ellen's office, or perhaps in her office, and they would be watching me on the air, and that on one occasion Karen told me that Betty Ellen said, Kaity, she's getting old, isn't she? And Karen said she responded, She looks 25.

On another occasion, Betty Ellen said to Karen, Karen tells me that, Is Kaity phoning it in these days? And Karen says, She approaches -- we were doing elections at the time -- She approaches elections and any other kind of extended coverage like the academic she is.

I was getting my doctorate at Stanford in Chinese and Japanese literature before I got into this business by accident. I do have that kind of approach to anything that I know is going -- in addition to ad-libbing, which we all do, and when we have extended coverage I also wanted always to have a notebook very clearly delineated with little tabs of all the senators, assemblymen, congressmen, whomever, all the issues, whatever, clearly laid out so

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A. At times.

MR. CERASIA: Objection.

Q. Aside from what Karen may have told you, what other information, if any, do you have with respect to age-related comments made by Ms. Berlamino about yourself?

A. Repeat that, please.

Q. Aside from what Karen may have told you, what other information do you have about age-related comments Ms. Berlamino may have made about you?

A. I never heard Betty Ellen say anything to me directly about that. She was always very nice to my face. I don't remember anybody coming to me and saying -- let me think about that, though.

Let's put it this way: After -- I think it was shortly after Betty Ellen came to -- became General Manager, people in the newsroom began to comment on the fact that several people had been let go, and nobody -- it was never said, Betty Ellen said we're letting these people go because they're old, but the talk in the newsroom, clearly, was that when

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A. Are you sure?

Q. I'm sure.

A. I was getting rolling there. All right. I hope I was helpful.

MR. CERASIA: I have some.

THE WITNESS: Okay.

EXAMINATION BY

MR. CERASIA:

Q. You talked about being demoted to a field anchor in October 2010; right?

A. Yes.

Q. That was after Betty Ellen left

WPIX?

A. Yes.

Q. So she wasn't part of that decision?

A. No. Absolutely not.

Q. During the time that Betty Ellen was there as General Manager you were an anchor during that whole time; correct?

A. Yes, I was.

Q. So she never demoted you?

A. No. Well, except for the June 29th memo, which was a demotion in the sense my pay

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was cut dramatically.

Q. You consider a pay cut to be a demotion?

A. Well, in a sense, yes, I guess I do.

Q. Do you know who made the decision to cut your pay?

A. No.

Q. Do you know who made the decision to issue a Performance Expectation Memo --

A. No.

Q. -- in June 2009?

A. No.

Q. No one ever told you?

A. Did anyone ever tell me? Well, I believe that Karen did tell me that came from Betty Ellen.

In fact, I know she did.

(Tong Exhibit 2, marked for identification.)

Q. Ms. Tong, I'm showing you what's been marked as Tong Deposition Exhibit 2.

A. A-ha.

Q. Is this the June 29, 2009, Performance Expectation Memo that you referred

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to earlier in your testimony?

(Witness reviews document.)

A. Yes.

Q. That's your signature on the second page?

A. Yes.

Q. Is this the memo that you say that Karen told you Betty Ellen had her issue?

A. Yes.

Q. You have no personal knowledge, though, as to who made the decision?

A. No.

Q. You just go based on what Ms. Scott told you; right?

A. Yes.

Q. Do you know whether or not Betty Ellen Berlamino was in favor of keeping you as an anchor?

A. Again, what I know is that Karen told me that Betty Ellen did not want me to be the single anchor. That's all I can tell you as fact.

Q. But you had no contact with Betty Ellen Berlamino about that?

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A. No.

Q. When you said that Karen told you that Betty Ellen had her issue Exhibit 2 to you, was that while Karen was still employed by the company?

A. Yes.

Q. You never went to Betty Ellen to ask her about this memo when she issued it?

A. No.

Q. Why not?

A. I was angry.

Q. Now, with respect to Exhibit 1, which is your response, I think you testified that you never spoke about the substance of your response or Exhibit 2 with anybody at the station?

A. No. That's not true.

Q. Other than the initial meeting, you had an initial meeting with Karen and Betty Ellen?

A. No. I don't remember saying -- did I just say that? Because that's not so. I don't remember being asked that specifically. I did discuss it with a number of

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people because I was so angry about it.

Q. Did you speak to anybody at Tribune headquarters about this?

A. No.

Q. Did you ever have a meeting in late summer or early fall with Steve Charlier where the two of you shared a meal and talked about expectations?

A. Yes. Yes. Yes. You're right, I forgot, I did have a meeting, and we talked about this specifically.

Q. You're pointing to it?

A. I'm talking about the memo.

Q. Exhibit 1?

A. Yes. And my response specifically.

Q. So you spoke to Steve Charlier about both Exhibit 1 and Exhibit 2?

A. Yes, that's correct.

Q. He explained to you the intent behind Exhibit 2; correct?

MR. RUBINSTEIN: Objection.

A. I don't remember. I don't know what you mean.

Q. Did he explain to you why it was you

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are issued the memo in June 2009?

A. I think he said it was because of the research that they had done.

Q. Had you ever seen the research?

A. I asked him if I could see it, and he did not reply. In fact, I asked it in here, too.

Q. Right, I saw that.

Do you know whether or not the research was, in fact, conducted prior to you getting Exhibit 2?

A. All I can say is Karen Scott told me that there was research done by a bogus company, those are her words, not mine, in Pennsylvania, and that it was absolutely contrary to any other research that had ever been done on me.

Research was done, according to what Karen told me, but she claims that it was not professional research.

Q. So all of your knowledge as to why you received or why you believe you received Exhibit 2 is based on what Karen Scott told you?

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A. Yes.

Q. Do you know, personal knowledge, whether, in fact, that research was, in fact, conducted?

A. Personal knowledge, no. But it's in the memo.

Q. Did she ever tell you what Betty Ellen Berlamino thought about the research?

A. She told me that Betty Ellen Berlamino was 100 percent behind this research and this memo.

Q. So you testified to your opinion that maybe you got this memo and possibly it was because of your age.

Was it your assumption that if you had been a victim of discrimination with respect to this memo it was a decision that was made by Betty Ellen?

MR. RUBINSTEIN: Objection.

A. Could you repeat?

Q. That's fair enough.

I think what you said was that when you got the memo you thought maybe, or at least it was your opinion potentially, because it was

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unfair it was maybe because of your age; correct?

MR. RUBINSTEIN: Objection.

A. Again, I didn't want to give opinion.

Q. I understand, but you did.

A. I did. In my head, yes, I thought those thoughts. I wondered.

Q. You wondered. That's fair enough. Who do you believe would have been the person who would have discriminated against you if your opinion was correct?

A. I guess I would have to say, again, I would have to go by what I was told by Karen Scott, that it was Ed Wilson and Betty Ellen, those were the names, the only two names I recall her linking to -- linking to my memo.

And also conversations, as I said in that conversation that Karen told me about, Ed Wilson was there and also was not for using me as the single anchor.

Q. Did you have some opinion, in your mind, that if either Betty Ellen or Ed Wilson favored Jim Watkins over you that it was

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because of your age?

A. I think I thought that was a factor from what I had been told by Karen Scott.

Q. Did you have a good working relationship with Betty Ellen up until, let's just take the time period up until June 29, 2009?

A. I thought I did.

Q. Was there any animosity or hostility between the two of you?

A. Not that I was aware of.

Q. Did she treat you professionally?

A. Yes, I think so. To my face, yes, absolutely.

Q. At any point after January 29, 2009, was there ever a time that there was any hostility or animosity between the two of you?

A. Are you talking about after she left?

Q. No, right after January 29, 2009, so roughly the next year.

MR. RUBINSTEIN: June.

Q. At any point after June 29, 2009, up until the time that Betty Ellen left WPIX in

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A. Not to me directly. She never said anything to me, as far as I can remember, to my face. We've had lunches together, we had fun, I felt that I had a good relationship with Betty Ellen and a friendly one, but again, from things that I was told by people that would know, I was led to believe that she really -- she thought I was old, and she didn't like what she was seeing on the air from me, and that is -- again, I wasn't there, I didn't hear her say any of these things. This is just what I was told. That part is a fact, I was told this.

Q. Other than Exhibit 2, which is the Performance Expectation Memo to you, are you aware of any other decision that you believe Betty Ellen made that was negative towards your professional advancement at WPIX?

A. The meeting that I talked about earlier that Karen Scott told me about, which I believe it was Karen, Betty Ellen, Ed Wilson, perhaps some other people, discussing who would be chosen to anchor a single-anchor show, and I already testified to this, that Karen says that in that meeting Betty Ellen absolutely would

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not consider anybody but Jim. And despite Karen telling her there was a strong research that showed Jim was -- nothing against Jim, I love Jim -- but nobody knew him in comparison to how many people felt that I was -- I had good TV Q.

Q. Do you know when it was she told you that?

A. When she told me that? That would have been sometime after Karen left.

Q. So some point after August 2009?

A. Yes.

Q. You never heard Betty Ellen Berlamino ever make any negative or derogatory comment about any employee's age, did you?

MR. RUBINSTEIN: Objection to the form.

A. Did I personally hear it?

Q. Yes.

A. No.

Q. Do you know who made the decision to not renew Barry Cunningham's contract?

A. No.

Q. Do you know who made the decision

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mentioned the research, and I asked to see it. And he didn't respond to that, changed the subject.

I remember we had a lot of laughs, I don't remember about what. And then he did say something like, to the effect that -- was it in that meeting that he told me this or was it another? That he was pretty sure I wasn't happy with working six months at a time, but that probably could change. I can't remember whether it was during that lunch or whether it was a meeting afterwards.

I did have one other sort of sit-down meeting with him in my office shortly before he made changes to the new show.

Q. Did you ever have an opinion or feeling that Steve Charlier ever discriminated against you because of your age?

A. No.

Q. Do you know Ed Wilson?

A. I don't. I met him.

Q. The time that you met him was it a pleasant interaction?

A. Yes. The Tribune was at a bowling

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remember.

A. I don't actually remember, but again, I remember in that meeting being surprised that my pay was being cut so much. That's reflected in this. So I wouldn't have been surprised if I had gotten this first.

Oh, I'm sorry, Exhibit 2 or whatever, 4, I'm sorry.

Q. You think you received Exhibit 2 before Exhibit 4?

A. Thank you, Ed. That's what I meant to say.

Q. What's your date of birth?

A. [REDACTED], 1949.

Q. Now, you had contracts in 2003 and then again in 2006.

Do you remember that?

A. A-ha. A-ha.

Q. Yes. Sorry, you have to verbalize.

A. Oh, I'm sorry, yes, I had contracts in 2003 and 2006.

Q. Do you know who made the decision to extend each of those contracts?

A. Specifically, no. I just assumed

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after you received the expectation memo, that Karen told you in her office that Betty Ellen had said something to the effect that you were old?

A. In one of them.

MR. RUBINSTEIN: Objection.

A. Karen told me those words, I wasn't there.

Q. That would have been on or about June 29th of 2009, then --

A. Oh, let me think.

Q. -- that she told you this. That's what I want to know.

A. Yes. I'm trying to remember. It was shortly before that, I would imagine, as far as I can recollect.

Q. So you think that Karen told you that Betty Ellen allegedly said you were too old before June 29, 2009?

A. It was -- it was said actually more than once. She told me on a number of occasions -- not a number. On at least one or two occasions, Betty Ellen said something to that effect. It was while Betty Ellen was

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General Manager.

As to exactly when she said it, I can't be too specific. I just don't really remember. Sorry.

Q. I apologize, maybe I'm confused. I thought you testified that after you got the memo you went into her office; right?

A. Yes.

Q. And that she told you on that occasion that Betty Ellen said you look old.

MR. RUBINSTEIN: Objection.

Q. I'm wondering if it did happen, according to you, that Karen said that to you on June 29, 2009, or it was some other day?

MR. RUBINSTEIN: Objection.

A. Ed, she definitely told me that Betty Ellen said that in her office. I don't remember whether she said that specifically to me right after the memo. I do know she was very upset -- you know what, now that I think about it, yes, I think she did say that. She did say that Betty Ellen -- she was summarizing. Betty Ellen thinks you're too old.

This did not come from me, Karen

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taken, but I cannot speculate as to why those actions were taken. I do not know if it had anything to do with my age.

Q. But your belief that possibly it was because of your age, is it true, it was based solely on your understanding from Karen that Betty Ellen made a comment that you were too old?

MR. RUBINSTEIN: Objection. Asked and answered.

A. Betty Ellen never, to my face, said anything derogatory to me. I get -- I have testified to what was told to me by Karen Scott.

Q. I understand that. It was based on what Karen told you, led you to believe that you might have been a victim of age discrimination?

MR. RUBINSTEIN: Objection. Asked and answered.

A. Yes.

Q. Other than that, was there anything else that led you to believe that you might have been a victim of age discrimination?

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MR. RUBINSTEIN: Objection. Asked and answered.

A. Again, I would be -- this would be speculation. I don't want to do that. But I was taken off the air and replaced by someone younger.

Q. Not while Betty Ellen was there?

A. No. No.

Q. I'm talking about the time while Betty Ellen was there.

A. No. No. No.

MR. CERASIA: I don't have any other questions right now. Thanks.

MR. RUBINSTEIN: Ms. Tong, a couple of follow-ups.

BY MR. RUBINSTEIN:

Q. The Facebook message you received from Ms. Berlamino, did she say why she was apologizing?

A. I would have to reread it. I haven't seen it in a while.

Q. You do have it at home?

A. I do have it. As far as I can recall, she just felt terrible about what had

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